

REMARKS

This application has been reviewed in light of the Office Action dated August 2, 2007. Claims 1, 2, 4-11, and 38-47 are presented for examination. Claim 47 has been added to provide Applicants with a more complete scope of protection. Claims 1, 38, and 47 are in independent form. Favorable reconsideration is requested.

Applicants note with appreciation the indication that claims 8-11 and 43-46 would be allowable if rewritten so as not to depend from a rejected claim, and with no change in scope. These claims have not been so rewritten because, for the reasons given below, the respective base claim of each is believed to be allowable. However, Applicants have added new independent claim 47 which includes the recitation of allowable claim 43 and base claim 38. Accordingly, Applicants submit that claim 47 is in condition for allowance.

Claims 1, 2, 4-7 and 38-42 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,255,485 (Lemke et al.).

Applicants respectfully traverse this rejection for the following reasons.

Claim 1 is directed to an adjustable orthopedic tool. The tool comprises a shaft portion having first and second ends and a longitudinal axis, an adjustment portion and a fastener receiving portion. The first end comprises a cutting portion configured to drill a hole in bone, and the second end configured to be coupled to a source of rotational motion. The tool further comprises a fastener engaging portion, and an adjustment mechanism mounted on the shaft and configured to allow the user to vary a distance between the cutting portion and the fastener engaging portion. The fastener receiving portion is configured to receive at least a portion of a cannulated fastener thereon. The fastener engaging portion is configured to rotationally couple the tool to a driving portion of the cannulated fastener to transmit rotational motion thereto, and the adjustment mechanism is selectively movable along the longitudinal axis of the shaft to allow the tool to accept fasteners having different lengths. The adjustment portion of the shaft further comprises external threads and the adjustment mechanism further comprises internal threads. The threads are engageable to allow the shaft and mechanism to be moved axially along a longitudinal axis of the shaft by rotating the pieces with respect to each other.

A noted feature of the adjustable orthopedic tool is that the shaft portion has an adjustment portion comprising external threads. That is, the adjustment portion is part of the

shaft portion and that the adjustment portion comprises external threads. Applicants are clearly claiming the shaft portion has external threads.

Applicants disagree with the Examiner's comment on page 3 of the Office Action that Applicants are not claiming that the shaft has an externally threaded portion. As is clear from the recitation of claim 1, the shaft portion has an adjustment portion . . . wherein the adjustment portion of the shaft further comprises external threads . . .

As is evident, the Lemke tool fails to disclose all the structural elements of the adjustable orthopedic tool of claim 1. Applicants submit that nothing has been found in Lemke et al that teaches or suggests the shaft portion having an adjustment portion, wherein the adjustment portion of the shaft further comprises external threads and the adjustment mechanism further comprises internal threads, the threads are engageable to allow the shaft and mechanism to be moved axially along a longitudinal axis of the shaft by rotating the pieces with respect to each other, as recited in claim 1.

Accordingly, Applicants submit that claim 1 is not anticipated by Lemke et al., and respectfully request withdrawal of the rejection under 35 U.S.C. § 102(b).

Claim 38 is also directed to an adjustable orthopedic tool. The tool includes a shaft portion having first and second ends and a longitudinal axis, an adjustment portion comprising external threads and a fastener receiving portion. The first end comprises a cutting portion configured to drill a hole in bone, and the second end configured to be coupled to a source of rotational motion. The tool further includes a fastener engaging portion, and an adjustment mechanism mounted on the shaft and configured to allow the user to vary a distance between the cutting portion and the fastener engaging portion. The fastener receiving portion is configured to receive at least a portion of a cannulated fastener thereon and the fastener engaging portion is configured to rotationally couple the tool to a driving portion of the cannulated fastener to transmit rotational motion thereto. The adjustment mechanism is selectively movable along the longitudinal axis of the shaft to allow the tool to accept fasteners having different lengths. Movement of the adjustment mechanism adjusts the distance between the fastener engaging portion of the adjustment mechanism and the cutting portion of the shaft. The adjustment mechanism comprises at least first and second sleeves, the first sleeve comprising inner threads configured to engage the external threads of the shaft and the fastener engaging portion disposed on the second sleeve.

Similar to claim 1, discussed above, the shaft of the adjustable orthopedic tool of claim 38 includes external threads which engage the inner threads of the adjustment mechanism. Thus, for reasons substantially similar to those discussed above with respect to claim 1, Applicants believe that claim 38 is clearly patentable over Lemke et al.

Accordingly, Applicants request withdrawal of the rejection of this claim under 35 U.S.C. § 102(b).

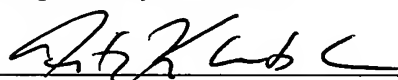
The other claims in this application are each dependent from one or another of the independent claims discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual consideration or reconsideration, as the case may be, of the patentability of each on its own merits is respectfully requested.

This Amendment After Final Action is believed clearly to place this application in condition for allowance and, therefore, its entry is believed proper under 37 C.F.R. § 1.116. Accordingly, entry of this Amendment After Final Action, as an earnest effort to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, it is respectfully requested that the Examiner contact Applicants' undersigned attorney in an effort to resolve such issues and advance the case to issue.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Respectfully submitted,

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